

Introduced by Senator Perata

February 24, 2006

An act to amend Sections 43701, 44021, 44024.5 and 44081.6 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1839, as introduced, Perata. Air pollution: smog check: Inspection and Maintenance Review Committee.

Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs, that provides for the inspection of all motor vehicles, except as specified. Existing law also establishes an enhanced motor vehicle inspection and maintenance program (smog check II) in each urbanized area of the state, any part of which is classified by the United States Environmental Protection Agency as a serious, severe, or extreme nonattainment area for specified air contaminants. Existing law establishes the Inspection and Maintenance Review Committee and requires the committee to analyze the effect of the program on motor vehicle emissions and air quality, among other things. Existing law requires the department to compile and maintain statistical and emissions profiles of motor vehicles that are subject to the motor vehicle inspection program and permits the department and State Air Resources Board, in consultation with the committee, to determine that certain motor vehicles may be excepted from the biennial certification requirements without significantly compromising the emission reduction objectives. Existing law also permits the department to conduct a pilot program to except from the biennial certification requirement those vehicles that may be jointly determined by the department and the state board, after consultation with the committee, to warrant exception. Existing law requires the department

to submit the results of the pilot program to the state board and the committee for review. Existing law requires the committee to review the protocol for the pilot program and to recommend any appropriate modifications.

This bill would delete the requirement that the committee review the protocol for the pilot program and would provide that the committee and its various functions and responsibilities would remain in effect only until December 31, 2005. This bill would also make conforming changes with regard to the functions of the committee.

This bill would specify that certain revisions made by the bill would become operative on December 31, 2005.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 43701 of the Health and Safety Code is
2 amended to read:

3 43701. (a) Not later than July 15, 1992, the state board, in
4 consultation with the bureau ~~and the review committee~~
5 ~~established pursuant to subdivision (a) of Section 44021~~, shall,
6 after a public hearing, adopt regulations that require that owners
7 or operators of heavy-duty diesel motor vehicles perform regular
8 inspections of their vehicles for excessive emissions of smoke.
9 The inspection procedure, the frequency of inspections, the
10 emission standards for smoke, and the actions the vehicle owner
11 or operator is required to take to remedy excessive smoke
12 emissions shall be specified by the state board. Those standards
13 shall be developed in consultation with interested parties. The
14 smoke standards adopted under this subdivision shall not be more
15 stringent than those adopted under Chapter 5 (commencing with
16 Section 44000).

17 (b) Not later than December 15, 1993, the state board shall, in
18 consultation with the State Energy Resources Conservation and
19 Development Commission, and after a public hearing, adopt
20 regulations that require that heavy-duty diesel motor vehicles
21 subject to subdivision (a) utilize emission control equipment and
22 alternative fuels. The state board shall consider, but not be
23 limited to, the use of cleaner burning diesel fuel, or other
24 methods which will reduce gaseous and smoke emissions to the

1 greatest extent feasible, taking into consideration the cost of
2 compliance. The regulations shall provide that any significant
3 modification of the engine necessary to meet these requirements
4 shall be made during a regularly scheduled major maintenance or
5 overhaul of the vehicle's engine. If the state board requires the
6 use of alternative fuels, it shall do so only to the extent those
7 fuels are available.

8 (c) The state board shall adopt emissions standards and
9 procedures for the qualification of any equipment used to meet
10 the requirements of subdivision (b), and only qualified equipment
11 shall be used.

12 (d) To the extent permissible under federal law, commencing
13 January 1, 2006, the owner or operator of any commercial motor
14 truck, as defined in Section 410 of the Vehicle Code, with a gross
15 vehicle weight rating (GVWR) greater than 10,000 pounds that
16 enters the state for the purposes of operating in the state shall
17 maintain, and provide upon demand to enforcement authorities,
18 evidence demonstrating that its engine met the federal emission
19 standards applicable to commercial heavy-duty engines for that
20 engine's model-year at the time it was manufactured, pursuant to
21 the protocol and regulations developed and implemented
22 pursuant to subdivision (e).

23 (e) The state board, not later than January 1, 2006, in
24 consultation with the California Highway Patrol, shall develop,
25 adopt, and implement regulations establishing an inspection
26 protocol for determining whether the engine of a truck subject to
27 the requirements of subdivision (d) met the federal emission
28 standard applicable to heavy-duty engines for that engine's
29 model-year at the time it was manufactured.

30 SEC. 2. Section 44021 of the Health and Safety Code is
31 amended to read:

32 44021. (a) (1) The Inspection and Maintenance Review
33 Committee is hereby created to analyze the effect of the
34 improved inspection and maintenance program established by
35 this chapter on motor vehicle emissions and air quality. The
36 functions of the review committee shall be advisory in nature and
37 primarily pertain to the gathering, analysis, and evaluation of
38 information.

39 (2) The members of the review committee shall receive no
40 compensation, but shall be reimbursed by the department for

1 their reasonable expenses in performing committee duties. The
2 state board and the department shall provide the review
3 committee with any necessary technical and clerical support in its
4 evaluation and study.

5 (3) (A) The review committee shall consist of 13 members,
6 nine to be appointed by the Governor, two by the Senate
7 Committee on Rules, and two by the Speaker of the Assembly.
8 All members shall be appointed to four-year terms, and the
9 Governor shall appoint from among his or her appointees the
10 chairperson of the review committee.

11 (B) The appointees of the Governor shall include an air
12 pollution control officer from an enhanced program
13 nonattainment area, three public members, an expert in air
14 quality, an economist, a social scientist, a representative of the
15 inspection and maintenance industry, and a representative of
16 stationary source emissions organizations.

17 (C) The appointees of the Senate Committee on Rules shall
18 include an environmental member with expertise in air quality,
19 and a representative from the inspection and maintenance
20 industry.

21 (D) The appointees of the Speaker of the Assembly shall
22 include an environmental member with expertise in air quality,
23 and a representative of a local law enforcement agency charged
24 with prosecuting violations of this chapter in an enhanced
25 program nonattainment area.

26 (4) In preparing its evaluations of program effectiveness as
27 provided in paragraph (1), the review committee shall consult
28 with the Department of the California Highway Patrol, the
29 Department of Motor Vehicles, and any other appropriate
30 agencies, as well as the department and the state board, shall
31 schedule and conduct periodic meetings in the performance of its
32 duties, and shall meet and consult with local, state, and federal
33 officials involved in the evaluation of motor vehicle inspection
34 and maintenance programs. At the request of the committee, the
35 department or the state board may, on behalf of the committee,
36 contract with independent entities to assist in the committee's
37 evaluations.

38 (b) The review committee shall submit periodic written
39 reports to the Legislature and the Governor on the performance
40 of the program and make recommendations on program

1 improvements at least every 12 months. The review committee's
2 reports shall quantify the reduction in emissions and
3 improvement in air quality attributed to the program. Any
4 reports, other than those required by this section, that the review
5 committee is required to provide pursuant to this chapter shall
6 also be transmitted to the Secretary for Environmental Protection
7 and the Secretary for State and Consumer Services.

8 (c) The review committee shall work closely with all
9 interested parties in preparing the information required by
10 subdivisions (a) and (b) and shall consider the reports provided
11 pursuant to subdivision (e). The review committee shall hold at
12 least one public hearing on its findings and recommendations
13 prior to submitting its reports. The reports shall include statutory
14 language to implement its recommendations, and shall
15 recommend the timeframe for making any changes to the
16 program. The review committee shall seek comments from the
17 department, the Department of Motor Vehicles, the Department
18 of the California Highway Patrol, and the state board prior to
19 submitting its reports, and those comments shall be published as
20 an appendix to the report.

21 (d) The review committee shall participate in the
22 demonstration program authorized by Section 44081.6, as
23 provided by that section.

24 (e) The state board, in cooperation with the department, shall
25 periodically submit reports to the review committee. The reports
26 shall include an assessment of the impact on emissions of
27 continuing the exemption from inspection of motor vehicles
28 newer than five years old; a comparison of the actual mass
29 emission reductions being achieved by the enhanced program to
30 those required by the State Implementation Plan; and
31 recommendations to improve the effectiveness and
32 cost-effectiveness of the program, including specific
33 recommendations addressing any discrepancy between emissions
34 achieved and those in the State Implementation Plan. The first
35 report shall be submitted not later than January 1, 2000, and
36 reports shall be submitted triennially thereafter. In preparing the
37 reports, the state board shall use data collected during inspections
38 and repair, and data collected using roadside measurements, and
39 may conduct additional testing, as determined to be necessary, to
40 accurately quantify the mass emissions reduced.

1 (f) *This section shall remain in effect only until December 31,*
2 *2005, and as of that date is repealed.*

3 SEC. 3. Section 44024.5 of the Health and Safety Code is
4 amended to read:

5 44024.5. (a) The department shall compile and maintain
6 statistical and emissions profiles of motor vehicles that are
7 subject to the motor vehicle inspection program. The department
8 may use data from any source, including remote sensing data and
9 other motor vehicle inspection program data, to develop and
10 confirm the validity of the profiles.

11 (b) The department, in cooperation with the state board, shall
12 perform periodic analyses of the statistical and emissions profiles
13 created pursuant to subdivision (a). The department and the state
14 board, ~~in consultation with the Inspection and Maintenance~~
15 ~~Review Committee~~, may determine that, in addition to the
16 vehicles excepted pursuant to Section 44011, certain other motor
17 vehicles may be excepted from the biennial certification
18 requirements of this chapter without significantly compromising
19 the emission reduction objectives set forth in the State
20 Implementation Plan (SIP).

21 (c) The department may conduct a pilot program to except
22 from the biennial certification requirement those vehicles that
23 may be jointly determined by the department and the state board;
24 ~~after consultation with the Inspection and Maintenance Review~~
25 ~~Committee~~, to warrant exception. The department shall provide
26 written notification to the Legislature specifying the number of
27 vehicles to be exempted as well as the geographic location and
28 duration of the pilot program not less than 30 days prior to the
29 implementation of the pilot program. The department shall
30 submit the results of the pilot program to the state board ~~and the~~
31 ~~Inspection and Maintenance Review Committee~~ for review.
32 Subject to the approval of the United States Environmental
33 Protection Agency as an amendment to the SIP, the department
34 may establish the exception program as a permanent program.

35 (d) As part of the pilot program, on or before June 30, 2000,
36 the department shall evaluate standards for the operation of
37 remote sensing equipment, evaluate the need to certify
38 individuals who operate that equipment, and evaluate the need to
39 license entities that provide remote sensing services under the
40 direction of the department.

(e) For vehicles four model years old or less, the department shall use test data generated pursuant to Section 44014.7 to develop statistical and emissions profiles. The department may use data from any source, including remote sensing data, warranty repair and recall data, and other motor vehicle inspection program data, to develop and confirm the validity of the data. If the department and state board jointly determine that the emissions from a class of motor vehicles would potentially compromise the emission reduction objectives set forth in the SIP, the state board shall consider appropriate corrective action, including, but not limited to, recall pursuant to Section 43105.

SEC. 4. Section 44081.6 of the Health and Safety Code is amended to read:

44081.6. (a) The California Environmental Protection Agency, the state board, and the department, in cooperation with, and with the participation of, the Environmental Protection Agency, shall jointly undertake a pilot demonstration program to do all of the following:

(1) Determine the emission reduction effectiveness of alternative loaded mode emission tests compared to the IM240 test.

(2) Quantify the emission reductions, above and beyond those required by Environmental Protection Agency regulation or by the biennial test requirement, achievable from a remote sensing-based program that identifies gross polluting and other vehicles and requires the immediate repair and retest of those gross polluting vehicles at a test-only station established by this chapter.

(3) Determine if high polluting vehicles can be identified and directed to test-only stations using criteria other than, or in addition to, age and model year, and whether this reduces the number of vehicles which would otherwise be subject to inspection at test-only stations.

(4) Qualify emission reductions above and beyond those that are required by the regulations of the Environmental Protection Agency, achievable from other program enhancements pursuant to this chapter.

(5) Determine the extent to which the capacity of the test-only station network established pursuant to Section 44010.5 needs to

1 be expanded to comply with Environmental Protection Agency
2 performance standards.

3 (b) The California Environmental Protection Agency shall
4 enter into a memorandum of agreement with the Environmental
5 Protection Agency to establish the protocol for the pilot
6 demonstration program. The memorandum of agreement shall
7 ensure, to the extent possible, that the Environmental Protection
8 Agency will accept the results of the pilot demonstration program
9 as the findings of the Administrator of the Environmental
10 Protection Agency. The pilot demonstration program shall be
11 conducted pursuant to the memorandum of agreement.

12 ~~(c) The review committee established pursuant to Section~~
13 ~~44021 shall review the protocol for the pilot demonstration~~
14 ~~program, as established in the signed memorandum of~~
15 ~~agreement, and recommend any modification that the review~~
16 ~~committee finds to be appropriate for the pilot demonstration~~
17 ~~program. Any such modification shall become effective only~~
18 ~~upon the written agreement of the California Environmental~~
19 ~~Protection Agency and the Environmental Protection Agency.~~

20 ~~(d) The department shall contract, on behalf of the committee,~~
21 ~~with an independent entity to ensure quality control in the~~
22 ~~collection of data pursuant to the pilot demonstration program.~~
23 ~~The department shall also contract, on behalf of the committee,~~
24 ~~for an independent analysis of the data produced by the pilot~~
25 ~~demonstration program.~~

26 ~~(e) —~~

27 (d) Any contract entered into pursuant to this section shall not
28 be subject to any restrictions that are applicable to contracts in
29 the Government Code or in the Public Contract Code. The
30 department shall report to the Legislature any action that is taken
31 in accordance with this subdivision.

32 ~~(f) —~~

33 (e) To the extent possible, the pilot demonstration program
34 shall be conducted using equipment, facilities, and staff of the
35 state board, the department, and the Environmental Protection
36 Agency.

37 ~~(h) —~~

38 (f) The pilot demonstration program shall provide for, but not
39 be limited to, all of the following:

1 (1) For the purposes of this section, any vehicle subject to the
2 inspection and maintenance program may be selected to
3 participate in the pilot demonstration program regardless of when
4 last inspected pursuant to this chapter.

5 (2) Registered owners of vehicles selected to participate in the
6 pilot demonstration program shall make the vehicle available for
7 testing within a time period and at a testing facility designated by
8 the department. If necessary, the department shall increase the
9 capacity of the existing referee network in the area or areas
10 where the pilot demonstration program will be operating, in order
11 to accommodate the convenient testing of selected vehicles.

12 (3) If the department finds that a vehicle is emitting excessive
13 emissions, the vehicle owner shall be required to make necessary
14 repairs within the existing cost limits and return to a testing
15 facility designated by the department. The vehicle owner shall
16 have additional repairs made if the repairs are requested and
17 funded by the department. The department shall also fund the
18 cost of any necessary repairs if the owner of the vehicle has,
19 within the last two years, already paid for emissions-related
20 repairs to the same vehicle in an amount at least equal to the
21 existing cost limits, in order to obtain a certificate of compliance
22 or an emission cost waiver.

23 (4) Vehicle owners who fail to bring the vehicle in for
24 inspection or fail to have repairs made pursuant to this section
25 shall be issued notices of noncompliance. The notice shall
26 provide that, unless the vehicle is brought to a designated testing
27 facility for testing, or repair facility for repairs, within 15 days of
28 notice of the requirement, the owner will be required to pay an
29 administrative fee of not more than five dollars (\$5) a day, not to
30 exceed two hundred fifty dollars (\$250), to be collected by the
31 Department of Motor Vehicles at the next annual registration
32 renewal or the next change of ownership of the vehicle,
33 whichever occurs first. Commencing on the 31st day after
34 issuance of the notice of noncompliance, the fee shall accrue at
35 the rate of five dollars (\$5) per day up to the two hundred fifty
36 dollars (\$250) maximum. Except as provided in subdivision (b)
37 of Section 9250.18 of the Vehicle Code, any revenues collected
38 by the Department of Motor Vehicles pursuant to this subdivision
39 and Section 9250.18 of the Vehicle Code shall be deposited into

1 the Vehicle Inspection and Repair Fund by the Department of
2 Motor Vehicles.

3 ~~(h)~~—

4 (g) The Department of Motor Vehicles, the Department of
5 Transportation, local agencies, and the state board shall provide
6 necessary support for the program established pursuant to this
7 section.

8 ~~(i)~~—

9 (h) As soon as possible after the effective date of this section,
10 the department and the state board shall develop, implement, and
11 revise as needed, emissions test procedures and emissions
12 standards necessary to conduct the pilot demonstration program.

13 SEC. 5. The amendments to Sections 43701, 44024.5, and
14 44081.6 of the Health and Safety Code made by Sections 1, 3,
15 and 4 of this act shall become operative on December 31, 2005.